IN THE HIGH COURT OF JUDICATURE
AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

CHAMBER SUMMONS NO.56 OF 2007
IN
NOTICE OF MOTION NO.3232 OF 2002
IN
SUIT NO.4667 OF 2000

Rabia Abdul Gani ...Plaintiff
Vs.
S.P.Sharma & Anr. ...Defendants
And
Asahel Teacher Memorial Trust ...Applicant
And
Mrs. Lassardo Thereza & Ors. ...Respondents

Mr.Ramesh Ramamurthy with Mr. S.A.P.Thomas for Applicant
Mr.Sanjay Jain with Ms. Yogini Gada i/b. Haratchand & Co. for Defendant No.2
Mr. D.V. Deokar 1st Asst. to Court Receiver present

CORAM: SMT. ROSHAN DALVI, J.
DATED: 19TH JANUARY, 2007

P.C.

1. This Chamber Summons is taken out by applicant who claims to be the party in possession of a part of the suit premises for which the Court Receiver has been appointed. The Chamber Summons is for setting aside the order dated 15th December, 2006 and the Court Receiver's Report No.45 of 2006 and to direct the Court Receiver to withdraw the

Notice issued by him for the premise claimed by the applicant and to restrain him from taking forcible possession as directed in order dated 15th December, 2006. It is also for a mandatory order against Court Receiver to accept payment of compensation or royalty in this Suit. The premises claimed by the applicant are Room Nos.3,4,8,13 and 14 in Wing-A of Church View Apartment at Malad (West), Mumbai-400 064. The Respondents to the Chamber Summons were the parties found in possession of the premises for which the Court Receiver was appointed in the first report of the Court Receiver. The Court Receiver has been directed to take forcible possession of these flats.

2. The Applicants must show their legal right, title and interest in the premises claimed by them. The Applicants claim to be in possession under unregistered Leave and License Agreement executed by the Respondents for Room Nos.3,4,13,14 and 15. The Applicants claim to be in possession of Room No.8 under a letter. The Respondents who were found in possession could not have created any third party rights under unregistered Leave and License Agreement or by a letter or even otherwise after Court Receiver was appointed. No legal right of the Applicant is seen in any of the premises.

3. The Chamber Summons is dismissed.

4. The Court Receiver shall take possession as ordered on 15th December, 2006 with the police protection if required. This order is not stayed.

(SMT.ROSHAN DALVI, J.)